

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 15751 of 2007(A)

PETITIONER:

**K.VIJAYAKUMARAN NAIR,
CHIEF ENGINEER (RTD), RAGENDU T.C.2/3397(20),
CRRA-J-3, CHALAKKUZHI ROAD, PATTOM,
TRIVANDRUM-695 004.**

BY ADV. SRI.P.JACOB VARGHESE

RESPONDENTS:

**THE MANAGING DIRECTOR,
KERALA WATER AUTHORITY, JALA BHAVAN,
VELLAYAMBALAM, THIRUVANANTHAPURAM.**

BY ADV. SRI.C.UNNIKRISHNAN, SC, KWA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 15751/2007 A

APPENDIX

PETITIONER'S EXHIBITS.

EXT.P1. COPY OF THE LETTER DT. 15/4/2005 BY THE PETITIONER TO THE RESPONDENT.

EXT.P2. COPY OF THE SHOW CAUSE NOTICE DT. 11/3/05 BY THE RESPONDENT TO THE PETITIONER.

EXT.P3. COPY OF THE GO NO. 17352/B1/2004/WARD DT. 9/8/04.

EXT.P4. COPY OF THE LETTER DT. 22/4/05 BY THE PETITIONER TO THE RESPONDENT.

EXT.P5. COPY OF THE REMINDER LETTER DT. 12/09/05 TO THE RESPONDENT.

EXT.P6. COPY OF THE REMUNDER DT. 5/12/05 BY THE PETITIONER TO THE RESPONDENT.

EXT.P7. COPY OF THE EXPLANATIOND T. 22/2/06 BY THE PETITIONER TO THE RESPONDENT.

EXT.P8. COPY OF THE REMINDER DT. 12/4/2006 TO THE RESPONDENT.

EXT.P9. COPY OF THE REMUNDER LETTER DT. 16/1/2007 BY THE PETITIONER TO THE RESPONDENT.

EXT.P10. COPY OF THE GO P NO. 185/2002/FIN DT. 27/3/02.

EXT.P11. COPY OF THE GO P NO. 803/2002/FIN DT. 30/12/2002.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE PROVISIONAL PENSION SANCTIONING ORDER DT. 2/6/07.

EXT.R1B. COPY OF PETITIONER'S LETTER DT. 29/6/07.

EXT.R1C. COPY OF THE V.C. 12/2000.

EXT.R1D. COPY OF THE V.C. 13/2000.

EXT.R1E. COPY OF THE REPORT OF DIRECTOR OF VACB DT. 15/09/04.

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EXT.R1F. COPY OF THE PETITIONER'S EXPLANATION DT. 22/2/06.

EXT.R1G. COPY OF THE EXPERT COMMITTEE CONSTITUTED BY KWA TO ASCERTAIN THE ACTUAL LOSS SUSTAINED TO KWA.

EXT.R1H. COPY OF THE REPORT OF EXPERT COMMITTEE.

EXT.R1(I). COPY OF THE LETTER NO. KWA/JB/E6(A)/11655/2004 DT. 1/08/07 BY THE MD TO THE GOVT.

True copy

tga

V. GIRI ,J.

WP(C).NO. 15751 of 2007

Dated this the 2nd day of November, 2007

JUDGMENT

The petitioner who was employed as a Chief Engineer in the Water Authority retired on 31.3.2004. His grievance is that the retirement benefits due to him are yet to be disbursed.

2. In a counter affidavit filed by the department, it is contended that the Vigilance & Anti-corruption Bureau (VACB) apparently recommended that a loss of Rs.5 lakhs has been caused by the petitioner. An expert committee appointed by the Water Authority concurred that the petitioner has occasioned loss, but estimated it as Rs.2,82,260/-. Liability is yet to be finalised, because an approval has been sought for in this regard from the government. In the meanwhile the retirement benefits due to the petitioner are still withheld.

3. The petitioner, refers to Ext.P10 order under which similarly situated persons, against whom there is a proposal for fastening the liability, were permitted to draw the DCRG

on executing a bond. He prays that a similar treatment should be meted out to him. He also submits that as an added measure of security, a bond will be executed by his wife Smt.Sobhana P.S., who is a serving officer in the Irrigation Department.

4. After having heard the learned counsel on both sides, I am of the view that in the facts and circumstances of the case, the petitioner may be permitted to draw the DCRG due to him on his executing a bond giving an undertaking to the Water Authority to indemnify it for any amount that may be found to be recoverable from the petitioner, on finalisation of the liability. As an added precaution, the petitioner will ensure that the petitioner's wife Smt.Sobhana, Executive Engineer of the Irrigation Department also executes a bond, referring to the bond executed by the petitioner, agreeing to keep the Water Authority indemnified of any loss that may be caused by the petitioner, if there is a default on the part of the petitioner to do so. This process will be completed within a period of one month from the date of receipt of a copy of this judgment.

5. It is made clear that the right of the petitioner to challenge any proceedings, by which any liability is fastened on him, will be left unaffected by this judgment. The contentions of either parties in that regard are left open.

V. GIRI, JUDGE

CSS/